

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

ROBERT L. DORMAGEN,

Movant

v.

CIVIL ACTION NO. 2:02-1377
(Criminal No. 2:01-00093-01)

UNITED STATES OF AMERICA,

Respondent

DISMISSAL ORDER

Pending is movant Robert L. Dormagen's motion, by appointed counsel, Tim C. Carrico, to withdraw both his motion pursuant to 28 U.S.C. § 2255 and his appeal from a June 2, 2003, order of the magistrate judge denying amendment of the section 2255 motion that sought to add a claim respecting the restitution imposed at sentencing.

Mr. Carrico has also filed today a supplement to the motion, which attaches a March 23, 2006, letter to him from the movant. The attached communication from the movant, which the court treats as a letter-form motion, states pertinently as follows: "I wish to withdraw my 2255 and related appeal and have it dismissed from the Court's Docket."

On a separate matter, the court notes that although the movant was directed by the court previously to execute a CJA-23

financial affidavit, he has failed to do so to date. The execution of that form may be necessary for purposes of compensating the movant's appointed counsel for his work to date in the case.

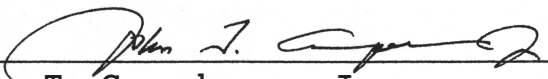
It appearing just and proper to do so, the court ORDERS as follows:

1. That the motion to withdraw be, and it hereby is, granted as to the contested matter presented in movant's section 2255 motion, and scheduled for evidentiary hearing, concerning whether the movant instructed his former counsel, Brian R. Kornbrath, to notice a direct appeal of the judgment;
2. That the movant's pro se, letter-form motion to dismiss be, and it hereby is, granted as to the balance of this habeas action in its entirety, including the pending appeal of the magistrate judge's order;
3. That the movant be, and he hereby is, instructed to complete the attached CJA-23 affidavit during, or prior to, the next contact with his probation officer, Mr. Burton Putman; and

4. That this action be, and it hereby is, dismissed and stricken from the docket.

The Clerk is directed to forward copies of this order to the United States Magistrate Judge, Phillip H. Wright, Criminal Division Chief, United States Attorney's Office, Brian R. Kornbrath, who is now Federal Public Defender for the United States District Court for the Northern District of West Virginia, and Tim C. Carrico. The Clerk is further directed to send a copy of this order to the movant at 345 Southgate Drive, Crossville, Tennessee, 38555.

ENTER: March 24, 2006



John T. Copenhaver, Jr.
United States District Judge

CJA 23

FINANCIAL AFFIDAVIT

Rev. 5/98

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

IN UNITED STATES

☐ MAGISTRATE☐ DISTRICT☐ APPEALS COURT or☐ OTHER PANEL (Specify below)

IN THE CASE OF

FOR

AT

LOCATION NUMBER

V.S.

PERSON REPRESENTED (Show your full name)

- 1 ☐ Defendant—Adult
 2 ☐ Defendant - Juvenile
 3 ☐ Appellant
 4 ☐ Probation Violator
 5 ☐ Parole Violator
 6 ☐ Habeas Petitioner
 7 ☐ 2255 Petitioner
 8 ☐ Material Witness
 9 ☐ Other

DOCKET NUMBERS

Magistrate

District Court

Court of Appeals

CHARGE/OFFENSE (describe if applicable & check box →)

☐ Felony☐ Misdemeanor**ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY**

EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Am Self-Employed									
	Name and address of employer: _____									
	IF YES , how much do you earn per month? \$ _____	IF NO , give month and year of last employment How much did you earn per month? \$ _____								
	If married is your Spouse employed? <input type="checkbox"/> Yes <input type="checkbox"/> No									
ASSETS	OTHER INCOME	IF YES , how much does your Spouse earn per month? \$ _____ If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____								
	CASH	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES , GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES <table border="1"> <thead> <tr> <th>RECEIVED</th> <th>SOURCES</th> </tr> </thead> <tbody> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> </tbody> </table>	RECEIVED	SOURCES	_____	_____	_____	_____	_____	_____
	RECEIVED	SOURCES								
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PROPERTY	Have you any cash on hand or money in savings or checking accounts? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES , state total amount \$ _____ Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES , GIVE THE VALUE AND \$ DESCRIBE IT <table border="1"> <thead> <tr> <th>VALUE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> </tbody> </table>	VALUE	DESCRIPTION	_____	_____	_____	_____	_____	_____	
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OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS <input type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED	Total No. of Dependents _____	List persons you actually support and your relationship to them _____ _____ _____
	DEBTS & MONTHLY BILLS	APARTMENT OR HOME:	Creditors	Total Debt
	(LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	_____	_____	_____
	_____	_____	_____	_____
				Monthly Paymt.

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date) _____

SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)